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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,393	01/20/2006	Kenneth LeClair	8449-304-999	6248
20583	7590	01/09/2008		
JONES DAY 222 EAST 41ST ST NEW YORK, NY 10017			EXAMINER LEE, JAE W	
			ART UNIT 1656	PAPER NUMBER
			MAIL DATE 01/09/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,393

Applicant(s)

LECLAIR ET AL.

Examiner

Jae W. Lee, Ph.D.

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-36 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Application status

Claims 1-36 are pending in the instant application.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-10 and 18, drawn to a nucleic acid molecule comprising the nucleotide sequence of SEQ ID NO: 1, wherein the nucleotide sequence is not flanked by sequences adjacent to SEQ ID NO: 1 in the native CD91 nucleotide sequence.

Group II, claim(s) 11-17, drawn to a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, 3, 6, 7, 8, 9, 10, 11, or 12, wherein the amino acid sequence is not flanked by sequences adjacent to SEQ ID NO: 2, 3, 6, 7, 8, 9, 10, 11, or 12, respectively, in the native CD91 polypeptide sequence.

Group III, claim(s) 19-23, drawn to an antibody or fragment thereof that immunospecifically binds to a CD91 polypeptide fragment, wherein the CD91 polypeptide fragment comprises the amino acid sequence of SEQ ID NO: 2, 3, 6, 7, 8, 9, 10, 11, or 12.

Group IV, claim(s) 24 and 25, drawn to a method for treating a CD91-related disease or disorder comprising administering the polypeptide of any one of claims 11-17 to a mammal in need thereof in an amount effective to treat the disease or disorder.

Group V, claim(s) 26-36, drawn to a method for identifying a compound that modulates an HSP-CD91-mediated process, comprising: (a) contacting a test compound with a

heat shock protein and a CD91 polypeptide fragment that binds a CD91 ligand; and (b) measuring the level of the CD91 polypeptide fragment activity or expression, such that if the level of activity or expression measured in (b) differs from the level of the CD91 polypeptide fragment activity or expression measured in the presence the heat shock protein but in the absence of the test compound, then a compound that modulates an HSP- CD91-mediated process is identified.

In addition to the above election, different SEQ ID NOs are subject to further election/restriction. Please elect a single nucleotide sequence from SEQ ID NOs: 1, 14, 15, 16 and 17, and a corresponding single polypeptide sequence from SEQ ID NOs: 2, 3, 6, 7, 8, 9, 10, 11 and 12.

These SEQ ID NOs represent structurally different nucleic acid/amino acid sequences, therefore where structural identity is required, such as for hybridization or expression, the different sequences have different effects. The claims will be examined to the extent they read upon the elected SEQ ID NOs.

The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. The reference of Herz et al. (EMBO J. 1998, Vol. 7, No. 13, pg. 4119-

4127) teaches a nucleic acid sequence as set forth in Applicant's SEQ ID NO: 1, encoding a polypeptide sequence as set forth in Applicant's SEQ ID NO: 2 (please see International Search Report filed on 04/04/2005), which anticipates the limitation of claim 1, in the recitation of "a nucleic acid molecule comprising the nucleotide sequence of SEQ ID NO: 1, wherein the nucleotide sequence is not flanked by sequences adjacent to SEQ ID NO: 1 in the native CD91 nucleotide sequence," and thus, the shared technical feature of the groups is not a "special technical feature", unity of invention between the groups does not exist.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Because these inventions are unrelated and distinct for the reasons given above, and the literature and sequence searches required for each of the Group is not required for another thereby presenting a search burden on the Examiner, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

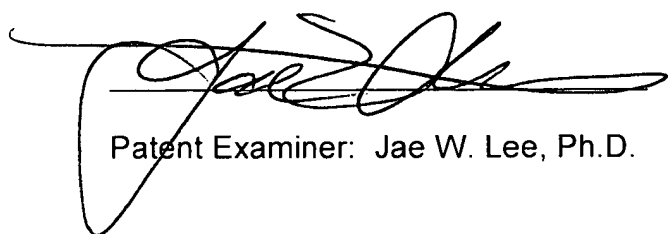
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(l).

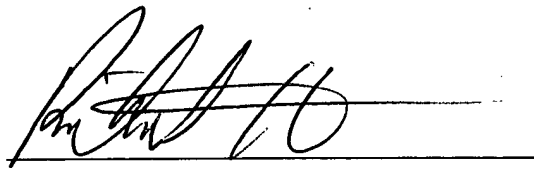
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jae W. Lee whose telephone number is 571-272-9949. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr Bragdon can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Patent Examiner: Jae W. Lee, Ph.D.



RICHARD HUTSON, PH.D.
PRIMARY EXAMINER